

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

YVONNE JETT,

Plaintiff,

v.

U.S. POSTAL SERVICE,

Defendant.

9th Cir. No.: 12-15237
D.C. No.: 11-5078 JSC

**ORDER DENYING LEAVE TO FILE
APPEAL IN FORMA PAUPERIS**

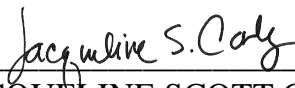
Plaintiff, filing pro se, appeals this Court's dismissal of her action to the Ninth Circuit, which requests a review of Plaintiff's in forma pauperis status. (9th Cir. No. 12-15237, Dkt. No. 2.) Under 28 U.S.C. § 1915(a)(3), "an appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." Permission to proceed in forma pauperis is only appropriate for a non-frivolous appeal. Hooker v. American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002).

In the dismissed case (D.C. No. 11-5078 JSC), Plaintiff alleged that Defendant denied her a reasonable work accommodation, thereby discriminating against her on the basis of a disability. After reviewing Plaintiff's papers and granting her leave to amend her initial complaint, the Court concluded that Plaintiff already litigated the same claims in Jett v. Potter et al., Case No. 08-4290 PJH (N.D. Cal.). The Court therefore determined that Plaintiff's

1 claims were barred by issue preclusion as she challenged an employment termination already
2 litigated. See Robi v. Five Platters, Inc., 838 F.2d 318, 322 (9th Cir. 1988) (stating that “the
3 doctrine of issue preclusion prevents relitigation of all ‘issues of fact or law that were actually
4 litigated and necessarily decided’ in a prior proceeding”) (quoting Segal v. American Tel. &
5 Tel. Co., 606 F.2d 842, 845 (9th Cir. 1979)). Accordingly, Plaintiff’s action was dismissed
6 with prejudice. (D.C. No. 11-5078 JSC, Dkt. No. 10.) Prior to appealing to the Ninth Circuit,
7 Plaintiff filed a third amended complaint without leave of the Court and was informed that
8 further pleadings would not be considered as the case was closed. (D.C. No. 11-5078 JSC,
9 Dkt. Nos. 11, 12.) As Plaintiff has not articulated any factual or legal basis for relitigating
10 her claims raised in 08-4290 PJH, Plaintiff’s appeal is frivolous. Leave to proceed in forma
11 pauperis is therefore denied.

12
13 **IT IS SO ORDERED.**

14
15 Dated: February 14, 2012

16 
17 _____
18 JACQUELINE SCOTT CORLEY
19 UNITED STATES MAGISTRATE JUDGE
20
21
22
23
24
25
26
27
28